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State of Louisiana

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE SECRETARY

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Secretary Deb Haaland
U.S. Department of Interior

Emailed to orphanedwells@ios.doi.gov

RE: Louisiana's Comments on U.S. Department of Interior Draft Guidance for State Formula Grants; Bipartisan Infrastructure Law Sec. 40601 Orphaned Well Program

Dear Secretary Haaland,

Please find below Louisiana's comments to your Department's Draft Guidance for State Formula Grants; Bipartisan Infrastructure Law Sec. 40601 Orphaned Well Program. First, we would like to thank you and your agency staff for the hard work and considered thought that has gone into standing up the Orphaned Well Program to date. It has been very helpful meeting on and discussing with your staff our plans for putting these grant monies to work in cleaning up orphaned oil and gas field sites across our State. We look forward to continuing this work.

Louisiana was able to participate in the recently held roundtables DOI hosted with the IOGCC. DOI's presentations on its draft guidance were informative and answered several of our questions, while raising others. That being said, Louisiana supports many of the comments provided by the IOGCC and its member states. Specifically, Louisiana agrees that DOI should work closely with the IOGCC and the States on its Formula Grant and Performance Grant guidance. Additionally, Louisiana supports streamlining any application process for formula grants if a phased process for grant awards is implemented.

Louisiana has implemented the recommended best practices found in the Initial Grant guidance, including: emissions of methane and water contamination measurement and tracking; and identification and addressing of any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities. Louisiana plans to continue implementing these practices under the Formula Grant and therefore does not object to them being included as requirements. Because it has been a matter of particular discussion with the other states in the meetings hosted by DOI along with IOGCC, Louisiana is happy to highlight that its costs for measuring and tracking methane emissions have been relatively small; to date preliminary data shows a cost between $625 - $650 per measurement event (with a pre and post-plugging measurement at each well site this equals an approximate cost of just under $1,300 per wellsite).

While Louisiana supports DOI's further engagement with IOGCC and the States on grant guidance, this should not slow down release of Formula Grant funds to the states. This is especially important to Louisiana, as we are concerned that any delay in funding release will endanger our ability to meet program goals and to thus realize the efficiencies of scale built into our current contracts and plans.

Many of the questions and comments provided by IOGCC and its member states revolved around DOI's plans for phased payments of the Formula Grant and recalculation of subsequent phase amounts. Since DOI's January 21, 2022 announcement of estimated amounts states would be eligible for under the Formula Grant, Louisiana has been under the impression that DOI would be requesting updates to the information the States provided in December 2021 in order to recalculate the amount Louisiana would be eligible to receive under the Formula Grant. During DOI's presentation at the IOGCC and States roundtable, DOI presented different possible methods for updating this information. Louisiana is supportive of a recalculation of the Formula Grant amounts as DOI initially proposed, as well as using updated information to reallocate unspent Initial Grant or other funding. This support, however, is contingent on DOI utilizing updated information for all three aspects of the formula. Louisiana specifically opposes any recalculation or update that only considers updated orphan well numbers, but not cost estimates. Louisiana feels utilizing only well numbers is inconsistent with the formula grant requirements in the IIJA and will reward those states with higher volume and lower cost orphan wells, at the expense of those states, like Louisiana, Alaska, California, and Texas, with higher individual cost orphan wells.

Estimated costs for plugging Louisiana's orphaned wells are significantly higher than the approximately $400 million submitted in December of 2021. That original cost estimate number was based on previous expenditures by Louisiana's state orphaned well program. Those expenditures necessarily included only those projects which our state program has completed. Left out of those numbers were the costs for plugging and restoring orphaned well sites that were too expensive to be addressed under the state program's available funding and performance metrics. Also missing from this estimate were the cost of new elements of plugging and site restoration recommended by DOI in its Initial Grant guidance. Finally, Louisiana has also seen a rise in plugging costs through its implementation of the Initial Grant orphaned well program most likely due to a number of factors shared by all the states such as inflation, competition for plugging contractors, tighter time limits, and limited equipment availability.

Subsequent to submission of Louisiana's December 2021 cost estimate, a report was published by Columbia University's Center on Global Energy Policy titled *Considering a Federal Program to Permanently Plug and Abandon Offshore Oil and Gas Wells*.[1] In this report, estimated costs are provided for many of the high-cost offshore wells not addressed to date by Louisiana's state program, and therefore not included in the December 2021 cost estimate submission. Looking

[1] See https://www.energypolicy.columbia.edu/publications/considering-federal-program-permanently-plug-and-abandon-offshore-oil-and-gas-wells#_edn38

at wells that have been inactive for 5 years or more in Louisiana's state waters, the report estimates the plugging and abandonment costs of wells in Louisiana's offshore waters to be approximately $1.725 billion. This potential cost estimate is unique to Louisiana. Comparatively, similar cost estimates for other states are approximately $178 million for Texas, $103 million for California, and $8 million for Alabama. Louisiana is moving forward with supporting a similar study of its estimated costs to plug and abandon orphaned wells on shore in the state. We believe Louisiana's updated cost estimates will benefit from this new study as well as the planned study. Louisiana asks that DOI consider developing objective standards for cost estimate calculations based upon a mixture of historic cost data and acceptable economic analysis similar to that utilized in the above referenced Columbia University study.

As for recalculation of the number of orphaned wells, Louisiana believes that the numbers it provided were limited due to an overly technical adherence to what it believed was being requested, namely only those wells formally designated by the state as orphaned as of the date of its December 2021 submission. Subsequently it has come to Louisiana's attention that other states included wells that were in the process of being orphaned, wells that while not designated as orphaned were authorized to have state money expended on them to plug, and wells with limited documentation calling into question potential duplication of well counts. DOI has stated that it expects these numbers to be updated as states locate/identify newly documented orphaned wells through use of IIJA grant monies. Louisiana worries that the well counts lack a truly objective standard and may unintentionally prevent an accurate estimate of the problem presented by orphaned wells across the country. Louisiana requests, if these documented orphaned well numbers are allowed to be updated, that DOI work with the states to establish more objective criteria for counting them. For instance, if Louisiana were to classify wells "eligible for plugging, remediation, and reclamation by the State" and not just those officially designated as "orphaned" under a narrower legal definition, the universe of documented wells in Louisiana could increase approximately five-fold.

Finally, while not discussed in DOI's presentations on its draft guidance, Louisiana again raises its objections to the limitation of job loss data to only those jobs included under NAICS Codes 211 and 213. When including all oil and gas job losses suffered by Louisiana for the given time period, Louisiana's job loss numbers increase from the 4,112 reported in January 2021 to 12,256.

Louisiana appreciates that there is insufficient funding in the IIJA Sec. 40601 grants to address all orphaned wells in Louisiana, not to mention the other states. We are sympathetic to those states whose estimated Formula Grant funding amounts are relatively small and are not opposed to setting a guaranteed minimum for those states so that any recalculation does not deprive them of enough money to effectively implement a federally funded orphan well program. Louisiana simply asks that if DOI plans to recalculate its Formula Grant amounts (or use updated information to reallocate unspent monies) that it work on ensuring objective criteria are used by the states and that such data be representative of the actual number and realistic estimations of costs to plug, remediate, and reclaim documented orphaned wells nationwide. Again, Louisiana asks that development of such criteria not delay release of the initial phase of Formula Grant money. We look forward to working with DOI to assist in this process.

The draft application requirements for Formula Grant funds ask the States to provide a federally approved Indirect Cost Rate agreement. LDNR's approved indirect cost rate agreement is for a rate that exceeds the 10% administrative cost limit. Is it possible for a State to utilize its indirect cost rate when it exceeds 10%? Might there be a difference between administrative and indirect costs? For several other federal grants that LDNR receives, the Indirect Cost Rate is added on top of the base grant amount. Would it be possible to do the same under the Formula Grant, especially in cases where not all of the IIJA funds have otherwise been spent by the States?

We would like to see further definition by DOI of what constitutes administrative costs. Louisiana worries that DOI will interpret its definition of administrative costs too broadly, thus making it impossible for states to accomplish many of the goals set forth in the IIJA and in DOI's draft guidance. For instance certain eligible expenses may benefit the program overall but be directly tied to work in the field, such as collecting methane and water quality data at orphaned well sites ultimately not plugged with IIJA funding when that data can be used for both project specific work and programmatic purposes, work by contractors to make necessary project tasks more efficient, and site-specific worker oversight. Louisiana believes a narrower application of an administrative cost definition will go a long way towards addressing other concerns raised regarding an inability for some states to meet all the reporting and other requirements on top of ensuring the bulk of the grant money goes towards plugging, reclaiming, and remediating orphaned oilfield sites.

Thank you again for your time and effort and for consideration of our comments.

Yours truly,

Thomas F. Harris
Secretary

cc: Kimbra Davis, DOI
Susan Lee, DOI
Peter Gallagher, DOI
Lori Wrotenbery, IOGCC